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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,443	06/18/2001	Reinhold Elferich	DE000089	2799
24737	7590	06/16/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS				BARRERA, RAMON M
P.O. BOX 3001				ART UNIT
BRIARCLIFF MANOR, NY 10510				PAPER NUMBER
				2832

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/883,443	ELFERICH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ramon M. Barrera	2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 05 June 2006.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-14 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2 and 5-14 is/are rejected.  
 7) Claim(s) 3 and 4 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 7-10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Price, et al.

Price discloses rotary knob 10, magnetic circuit (10,12,14), coil 14, and gap 18 with magnetorheological fluid 20. Regarding claims 9, 10, 12, and 13, it has been held that the recitation that an element is “adapted to” perform is not a positive limitation but only requires the ability to so perform.

3. Claims 1, 5, and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Jolly, et al.

Jolly discloses rotary knob 38 and/or 40, magnetic circuit (38,40,48), coil 48, and gap 36 with magnetorheological fluid 34. Regarding claims 9, 10, 12, and 13, it has been held that the recitation that an element is “adapted to” perform is not a positive limitation but only requires the ability to so perform.

***Claim Rejections - 35 USC § 103***

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price in view of Marx, et al.

Price did not disclose the control element includes Hall sensors and a sensor magnet wheel for determining the position of the rotary knob with respect to the stationary part of the magnetic circuit. Marx disclosed Hall sensors 3 and a sensor magnet wheel 2 for determining the relative position of rotary bodies. Since Price (abstract) and Marx (col. 5, line 10) are both from the same field of endeavor (braking), the purpose disclosed by Marx would have been recognized in the pertinent art of Price. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ Hall sensors and a sensor magnet wheel in Price for the purpose of determining the position of the rotary knob with respect to the stationary part of the magnetic circuit.

***Allowable Subject Matter***

5. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record taught or fairly suggested a ring of a hard magnetic material provided to keep metal particles contained in the magnetorheologic fluid away from a bearing and sealing area.

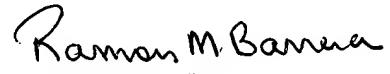
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramon M. Barrera whose telephone number is (571)

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272-1987. The examiner can normally be reached on Monday through Friday from 11 to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Ramon M Barrera  
Ramon M Barrera  
Primary Examiner  
Art Unit 2832

rmb